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Reply to August 19, 2005 Office Action

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### **REMARKS**

Applicant respectfully requests reconsideration of this application based on the foregoing amendments and the following remarks.

#### ***Claim Status***

Claims 1, 3-10, 12-20, 22-35, 38, 61, and 84 are pending in this application, of which claims 1, 12, 13, and 14 are independent in form. Claims 1, 3-10, 12-20, 22-35, 38, 61, and 84 are rejected. Claims 1, 4, 5, 6, 7, 8, and 10 are herein amended to correct minor grammatical errors. No new matter has been added by these amendments.

#### ***Claim Rejections – 35 U.S.C. § 102***

Claim 1, 3, 5, 6, and 10-14 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,819,020 to Beeler, Jr. ("Beeler"). Applicant respectfully traverses this rejection.

The Examiner contends that Beeler discloses "the select step of making the server automatically select from the plurality of data servers at least one data server located in a different area from an area registered by the user of the client terminal" at col. 2, lines 48-58 and col. 6, lines 44-51 [Final Office Action dated August 19, 2005, page 2]. Applicant respectfully disagrees with the Examiner's characterization of the cited section of Beeler.

At col. 2, lines 48-58, Beeler describes a prior art systems as follows:

Standby Server by VINCA uses the network mirroring capability of NetWare, and provides a mechanism to quickly switch from the source server to the target server in the event of a failure. VINCA's Standby Server 32 with Autoswitch, adds automatic switching between servers on failure, and allows the operator to take advantage of NetWare's 32-bit environment. Communication between the source and target servers is accomplished via a

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dedicated, proprietary interface. While the source and target server do not have to be identical, identical partitions are required on the local file system of each server.

In this section, Beeler merely discloses a single source server and a single target server. Beeler further discloses using the Standby Server product from VINCA for the source server and further using VINCA's Standby Server 32 product to automatically switch the Standby Server functionality to the target server. That is, in this section, Beeler fails to disclose a "data management method using a network system which includes *a server*, a client terminal *and a plurality of data servers*" as required by independent claim 1.

Further, Beeler discloses that on failure of the source server, its functionality automatically switches to the target server. However, since there is only one target server to which the source server can transfer functionality, the source server does not select from a plurality of servers. Moreover, the source server does not "automatically select from the plurality of data servers" as required by independent claim 1.

The Examiner further contends that Beeler discloses "the storage step of making the server send data associated with the data storage request to the selected at least one data server, and store the data in the selected at least one data server" at col. 10, lines 20-31 [Final Office Action dated August 19, 2005, page 2]. Applicant respectfully disagrees with the Examiner's characterization of the cited section of Beeler.

At col. 10, lines 20-31, Beeler describes an embodiment of his invention, which is shown in FIG. 8, as follows:

Target Sever(s)--User [88] selects one or more target servers [83] where replicated information will be stored. At startup, the workstation [85] broadcasts a message (1) to each network node [80] to determine if the node is configured as a target server [83].

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If node [83] is configured as a target server [81], a response (2) is sent to the requesting workstation [85] denoting that the specified node [83] is available. A list of all available target servers [87] is maintained (3) on the workstation [85], and is displayed to the user [88] for target server [83] selection. When target server [83] is selected by user [88], it is referred to as current target server ..

Applicant notes that the Examiner is mixing Beeler's teachings about the prior art Standby Server product by VINCA and an embodiment of Beeler's invention. In the cited section, Beeler discloses the *User [88]* selecting one or more target servers. That is, the source server does not select the target servers. Further, the source server does not *automatically* select the target servers. The phrase "the selected at least one data server" in this claim element must be interpreted in the context of the other claim elements. That is, "the selected at least one data server" is the at least one data server that was automatically selected from the plurality of data servers in the previous select step.

As stated above, Beeler fails to disclose the claimed select step in his discussion of the prior art Standby Server product by VINCA. More importantly, Beeler fails to disclose the claimed select step in his discussion of the embodiment depicted in FIG. 8, which is relevant to the disclosure at col. 10, lines 20-31. Therefore, the disclosure at col. 10, lines 20-31 fails to disclose "the storage step of making the server send data associated with the data storage request to the selected at least one data server, and store the data in the selected at least one data server" as required by independent claim 1.

Beeler fails to disclose each and every claim element of independent claim 1. More particularly, Beeler fails to disclose a data management method using a network system which includes a server, a client terminal and a plurality of data servers, comprising, *inter alia*, "the select step of making the server automatically select from the plurality of data servers at

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least one data server located in a different area from an area registered by the user of the client terminal; and the storage step of making the server send data associated with the data storage request to the selected at least one data server, and store the data in the selected at least one data server. Independent claims 12, 13, and 14 are believed to define patentable subject matter for at least similar reasons.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection applied to independent claims 1, 12, 13, and 14 under 35 U.S.C. § 102(b) as being anticipated by Beeler.

***Claim Rejections – 35 U.S.C. § 103***

Claims 4, 7, and 9 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Beeler as applied to claims 1 and 3, and further in view of U.S. Patent No. 6,347,384 to Satomi et al. ("Satomi"). Claim 8 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Beeler as applied to claims 1, 3, and 5, and further in view of Satomi and U.S. Patent No. 6,289,382 to Bowman-Amuah et al. ("Bowman-Amuah"). Claims 15-19, 23-28, 33-35, 38, 61, and 84 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Beeler and U.S. Patent No. 6,069,941 to Byrd et al. ("Byrd"). Claims 20 and 22 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Beeler and Byrd as applied to claim 15 above, and further in view of Satomi. Claims 29, 30, 31, and 32 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Beeler and Byrd as applied to claims 15 and 26 above, and further in view of Bowman-Amuah. Applicant respectfully traverses each of these rejections for at least the above-stated reasons regarding the deficiencies of Beeler.

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***Dependent Claims***

Applicant does not believe it necessary at this time to further address the rejections of the dependent claims as Applicant believes that the foregoing places the independent claims in condition for allowance. Applicant, however, reserves the right to address those rejections in the future should such a response be deemed necessary and appropriate.

**CONCLUSION**

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

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**AUTHORIZATION**


The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 1232-4812.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 1232-4812.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: November 21, 2005

By:



Ping Gu  
Registration No. L0040

Correspondence Address:  
MORGAN & FINNEGAN, L.L.P.  
3 World Financial Center  
New York, NY 10281-2101  
(212) 415-8700 Telephone  
(212) 415-8701 Facsimile